

# REGISTER

*South Dakota Legislative Research Council*



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**A COPY OF EACH REGISTER IS FILED IN THE OFFICE OF THE SECRETARY OF STATE**

**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

**Department of Human Services: Board of Counselor Examiners:** (October 31, 2003) has filed rules to amend the requirements of continuing education; clarify the intent of an inactive status of a license; cover administrative costs of handling program approval applications and an increase in examination fees; clarify the intent of SDCL 36-33-9(4); and clarify the requirements of supervision. The general authority for these rules, as cited by the board, is SDCL 36-32-19, 36-32-23, 36-32-26, 36-32-43, 36-33-9, and 36-33-14.

A public hearing will be held in Room 413 of the Capitol Building, 500 E. Capitol Avenue, Pierre, South Dakota, on November 21, 2003, at 9:00 a.m. Copies of the proposed rule may be obtained without charge from and written comments may be sent to the South Dakota Board of Counselor Examiners, P.O. Box 1822, Sioux Falls, SD 57101-1822 or by calling (605) 331-2927. Written comments must be received by November 21, 2003. This hearing is being

held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call the department at (605) 331-2927 at least forty-eight hours before the hearing.

## **FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**Administrative Rules: None**

### **Executive Order:**

The Governor has signed **Executive Order 2003-08**. This order declares that the state government offices, within the executive branch, shall be administratively closed on November 28, 2003.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:03, and the Department of Revenue.

## **REMINDER OF HEARINGS SCHEDULED**

11-5-2003	Labor: Plumbing Commission	Repeal the 1996 National Standard Plumbing Code and amendments and adopt the 2003 Uniform Plumbing Code with amendments; 30 SDR 55.
11-6-2003	Game, Fish and Parks	Amend rules that will permit uncased .22 caliber firearms year around on GFP designated rifle ranges at North Point and Oahe Downstream Recreation Areas and prohibits uncased firearms and bows year around in certain areas of Bear Butte State

		<p>Park; increase the entrance license fee for persons occupying commercial motor coaches; change the designation of the fee applicable at Richmond from "modern" to a "preferred" campground; require boat operators to have on board a Coast Guard-approved wearable personal flotation device for each person being towed on certain devices unless the person being towed has possession of a wearable Coast Guard-approved personal flotation device; permit a migratory bird certification "permit" to be in the form of an "authorization code" and clarifies that if the permit is a "stamp," the stamp must be on the hunting license; change from 4 weeks of age to 6 weeks as the time when game birds propagated, possessed, or released on a private shooting preserve must be appropriately marked; complete revision of and amendments to the chapter formerly known as "Domestication of Wild Species" and changed to "Captive Game Birds"; prohibit high-grading of trout in the Black Hills Trout Management Area and prohibit high-grading of bluegill in Campbell Slough; extend the date when an ice fishing shelter must be removed from Deerfield Lake; Newell Lake (largemouth bass) impose a 12-16 inch protected size restriction and establish a daily possession limit to include no more than one 16 inches or longer; Campbell Slough (smallmouth and largemouth bass) impose an 18 inch minimum size restriction and a daily possession limit of one; impose a 15 inch size restriction for largemouth and smallmouth bass in Stockade and New Underwood Lakes; impose a 14 inch minimum size restriction for walleye, sauger, and walleye-sauger hybrid at Campbell Slough, Curlew Lake, and Newell Lake; impose a 10 fish (bluegills and sunfish [or combination thereof], crappies, and perch) daily possession limit at Twin and Mud Lakes in Spink, Grant, and Roberts counties (except the Minnesota/SD boundary waters); clarify that no more than one of the northern pike taken daily from LaCreek National Wildlife Refuge may be 36 inches or greater in length and modify the possession limit; and impose</p>
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		the minimum size restriction for walleye, sauger, and walleye-sauger hybrid from 16 inches to 14 inches at Waubay Lake; open the bullfrog season all year long; prohibit taking turtles that are on the state list of endangered reptiles; modifies the species contained in the list of biological specimens that may be taken for commercial purposes and lawful anglers, and limits the possession by lawful anglers of any listed species to a daily limit of 15 each and possession limit of 30 each; repeal the resident, nonresident, and nonresident family fishing licenses for Lake Oahe; reduce the daily limit of walleye, sauger, and walleye-sauger hybrid on Lake Oahe to 6 daily and 18 in possession and prohibit the daily taking of more than one which is 22 inches or greater in length (was 18 inches); establish a daily limit of 3 walleye, sauger, walleye-sauger hybrid on Lake Sharpe and on Lake Francis Case and the Missouri River downstream from Fort Randall Dam approximately 3 miles to the Nebraska border; and prohibit the taking of bait and biological specimens on the Missouri River below Gavins Point Dam; 30 SDR 55.
11-12-2003	Social Services: Food Stamps	Adopt rules that specifies that those households that receive Low Income Energy Assistance are eligible for the food stamp standard utility allowance, and establish two new types of utility allowances for food stamp households: (1) a limited utility allowance, and (2) a one-utility allowance; 30 SDR 57.
11-12-2003	Social Services: Office of Medical Services	Amend rules that reflect changes in Federal Authority from a waiver to a State Plan amendment; remove SSI disabled children and Title V children from the Case Management program; amend the eligibility requirements for a primary care provider; amend the individual's choice of PCP time measured by the date of notice; to allow changes in PCP to be conveyed verbally or in writing by the recipient, and no longer has to establish good cause; changes made to reflect disenrollment effective date request initiated by the provider will be the first day of the month following approval, and that good cause reasons must be non-discriminatory, generally applied to the provider's entire patient base; clarifies the

		<p>language that a referral must be made by the PCP before the other medical provider provides service; changes exempt from managed care rehabilitation hospital services, chemical dependency treatment, and prescription drug services and states organ transplants, FQHC/RHC, and diabetic education programs are now covered services under managed care; amend the definition source for mental health services for those diagnosed as seriously emotionally disturbed and exempts prescription drug services and clarifies that case management services are not exempt services; repeals the requirement of case management for services provided at community mental health centers; amend the billing requirements for case management; repeal rules that state pharmacy claims must have a managed care referral; and require that claim requirements for ambulatory surgical center services must follow certain requirements and for organ transplant services, mental health services, diabetes education services, FQHC and RHC services must follow certain claim requirements; 30 SDR 56.</p>
11-14-2003	Environment and Natural Resources: Board of Water and Natural Resources	<p>Amend rules to move Loomis Township from Central Plains Water Development District Rural Director Area 4 to Rural Director Area 2; to use 2000 census data rather than the 1990 census data to award priority points for population; to allow the Board of Water and Natural Resources more flexibility in the type of projects that can receive water quality grants; to use median household income data from the 2000 census rather than use non-metropolitan median household income data from the 1990 census data to determine affordability criteria and disadvantaged community eligibility; to adjust the affordability criteria to reflect more recent census data; to quantify the criteria for awarding priority points for projects developing new sources of water supply; to change the basis for awarding points from having less than a peak day demand to an average day demand; and to use 2000 census data rather than the 1990 census data to award priority points for population; 30 SDR 63.</p>

11-17-2003	Agriculture: Division of Agricultural Services	Adopt a rule that will require those who manufacture distiller and corn gluten feed products to provide a maximum sulfur guarantee on the label of these products; 30 SDR 55.
11-21-2003	Human Services: Board of Counselor Examiners	Amend rules regarding continuing education; clarify the intent of an inactive status of a license; adopt an application fee for the continuing education program and increase the examination fee; clarify the intent of SDCL 36-33-9(4); and clarify the supervision requirements; 30 SDR 71.

### ***Rules Review Committee Meetings***

The next meeting of the Interim Rules Review Committee will be held Friday, November 14, 2003, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting for the remainder of the interim: January 12, 2004.

Agencies whose rules have had a public hearing will be scheduled to meet with the Rules Review Committee and are asked to have a representative present at the meeting to give background information on their rules.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.

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